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REMARKS

This is a full and timely response to the non-final Official Action mailed November 27, 2007. Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

Under the imposition of a previous Restriction Requirement, claims 6, 8-23, 30, 31, 48-53 and 56 were withdrawn from consideration. To expedite the prosecution of this application, withdrawn claims 17-23 and 51-53 were cancelled without prejudice or disclaimer. Withdrawn claims 6, 8-16, 30, 31, 48-50 and 56 remain in the application and are marked "withdrawn." Applicant will be entitled to rejoinder of these claims upon allowance of the corresponding independent claims. MPEP § 821.04.

By the forgoing amendment, various claims have been amended. Additionally, claims 8, 25, 26 and 29 are cancelled without prejudice or disclaimer. New claim 63 has been added. Thus, claims 1-5, 7, 24, 27, 28, 32-47, 54, 55 and 57-63 are currently pending for further action.

Prior Art:

Claims 1-5, 7, 24-29, 43-47, 54, 55, 57, 587, 60 and 61 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent App. Pub. No. 2005/0089283 to Michael et al. ("Michael"). For at least the following reasons, this rejection may be reconsidered and withdrawn.

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Claim 1 now recites:

A package for a micro-electromechanical device (MEMS package), comprising:
an inner enclosure having an inner cavity defined therein; and
a fill port channel communicating with said inner cavity through said inner enclosure;
wherein said fill port channel comprises a feature *internal to said inner enclosure* that permits passage of a fluid to said inner cavity, but restricts flow of an adhesive to allow a quantity of adhesive to enter said fill port channel while preventing said adhesive from entering said inner cavity.
(Emphasis added).

Support for the amendment to claim 1 can be found in Applicant's originally filed specification at, for example, Fig. 2 and the associated text. Fig. 2 specifically illustrates a choke point (240) internal to the inner enclosure (110).

In contrast, Michael does not appear to teach or suggest the claimed package comprising "a fill port channel communicating with said inner cavity through said inner enclosure; wherein said fill port channel comprises a feature internal to said inner enclosure that permits passage of a fluid to said inner cavity, but restricts flow of an adhesive." "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Michael of claim 1 and its dependent claims should be reconsidered and withdrawn.

Claim 24 now recites:

A package for a micro-electromechanical device (MEMS device), comprising:
an inner enclosure having an inner cavity defined therein;
a fill port channel coupling said inner cavity to an atmosphere; and

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a peninsula in said inner cavity that physically separates a portion of said inner cavity from said fill port channel to control the flow of fluid into said inner cavity.
(Emphasis added).

Support for the amendment to claim 24 can be found in Applicant's originally filed specification at, for example, paragraph 0027.

In contrast, Michael does not appear to teach or suggest the claimed package with "a peninsula in said inner cavity that physically separates a portion of said inner cavity from said fill port channel to control the flow of fluid into said inner cavity." "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Michael of claim 24 and its dependent claims should be reconsidered and withdrawn.

Claim 43 now recites:

A method of forming a package for a micro-electromechanical device (MEMS device), comprising:

forming an inner enclosure having an inner cavity defined therein;

forming a fill port channel, wherein said fill port channel extends through said inner enclosure so as to be in fluid communication with an atmosphere and said inner cavity and comprises *a feature internal to said inner enclosure* that permits passage of a fluid to said inner cavity and allows a variable flow of adhesive to enter said fill port channel while preventing said adhesive from entering said inner cavity; and

flowing a quantity of said adhesive through a fill port of said fill port channel and into said fill port channel.

(Emphasis added).

Support for the amendment to claim 43 can be found in Applicant's originally filed specification at, for example, Fig. 2 and the associated text. Fig. 2 specifically illustrates a choke point (240) internal to the inner enclosure (110).

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In contrast, Michael does not appear to teach or suggest the claimed package comprising "a fill port channel" that "comprises a feature internal to said inner enclosure that permits passage of a fluid to said inner cavity and allows a variable flow of adhesive to enter said fill port channel while preventing said adhesive from entering said inner cavity." "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Michael of claim 43 and its dependent claims should be reconsidered and withdrawn.

Claim 54 now recites:

A micro-electromechanical system (MEMS) package, comprising:
means for containing a MEMS device;
a fluid with said MEMS device in said means for containing said MEMS device;
means for introducing said fluid into an interior cavity of said means for containing said MEMS device;
an adhesive flowed into said means for introducing said fluid; and
means for controlling a flow of said adhesive through said means for introducing said fluid to as to prevent said adhesive from entering said interior cavity;
wherein said means for controlling said flow of said adhesive comprise sides of said means for introducing said fluid that narrow gradually so as to taper to a choke point and then gradually widen approaching said interior cavity.

(Emphasis added).

Support for the amendment to claim 54 can be found in Applicant's originally filed specification at, for example, Fig. 2 and the associated text. Fig. 2 specifically illustrates a choke point (240) created by gradually tapered sides of the channel (130).

In contrast, Michael does not appear to teach or suggest the claimed package comprising "means for controlling a flow of said adhesive...; wherein said means for controlling said flow of said adhesive comprise sides of said means for introducing said fluid

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that narrow gradually so as to taper to a choke point and then gradually widen approaching said interior cavity." "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Michael of claim 54 and its dependent claims should be reconsidered and withdrawn.

In an alternative rejection, claims 1-3, 24, 25, 43 and 44 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,930,367 to Lutz et al. ("Lutz"). For at least the following reasons, this rejection should be reconsidered and withdrawn.

As noted above, claim 1 now recites

A package for a micro-electromechanical device (MEMS package), comprising:
an inner enclosure having an inner cavity defined therein; and
a fill port channel communicating with said inner cavity through said inner enclosure;
wherein said fill port channel comprises a feature *internal to said inner enclosure* that permits passage of a fluid to said inner cavity, but restricts flow of an adhesive to allow a quantity of adhesive to enter said fill port channel while preventing said adhesive from entering said inner cavity.
(Emphasis added).

In contrast, Lutz does not teach or suggest the claimed package comprising "a fill port channel communicating with said inner cavity through said inner enclosure; wherein said fill port channel comprises a feature internal to said inner enclosure that permits passage of a fluid to said inner cavity, but restricts flow of an adhesive." There is not such feature of a fill port channel that is suggested by Lutz.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art

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reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Lutz of claim 1 and its dependent claims should be reconsidered and withdrawn.

Claim 24 now recites:

A package for a micro-electromechanical device (MEMS device), comprising:
an inner enclosure having an inner cavity defined therein;
a fill port channel coupling said inner cavity to an atmosphere; and
a peninsula in said inner cavity that physically separates a portion of said inner cavity from said fill port channel to control the flow of fluid into said inner cavity.

(Emphasis added).

In contrast, Lutz does not teach or suggest the claimed package with “a peninsula in said inner cavity that physically separates a portion of said inner cavity from said fill port channel to control the flow of fluid into said inner cavity.” There is clearly no such peninsula taught or suggested by Lutz.

“A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Lutz of claim 24 and its dependent claims should be reconsidered and withdrawn.

Claim 43 now recites:

A method of forming a package for a micro-electromechanical device (MEMS device), comprising:
forming an inner enclosure having an inner cavity defined therein;
forming a fill port channel, wherein said fill port channel extends through said inner enclosure so as to be in fluid communication with an atmosphere and said inner cavity and comprises *a feature internal to said inner enclosure* that permits passage of

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a fluid to said inner cavity and allows a variable flow of adhesive to enter said fill port channel while preventing said adhesive from entering said inner cavity; and flowing a quantity of said adhesive through a fill port of said fill port channel and into said fill port channel.
(Emphasis added).

In contrast, Lutz does not teach or suggest the claimed package comprising "a fill port channel" that "comprises a feature internal to said inner enclosure that permits passage of a fluid to said inner cavity and allows a variable flow of adhesive to enter said fill port channel while preventing said adhesive from entering said inner cavity." As noted above, Lutz does not teach or suggest any such feature.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, the rejection based on Lutz of claim 43 and its dependent claims should be reconsidered and withdrawn.

Conclusion:

The newly added claim is thought to be patentable over the prior art of record for at least the same reasons given above with respect to the original independent claims.

Therefore, examination and allowance of the newly added claim is respectfully requested.

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants

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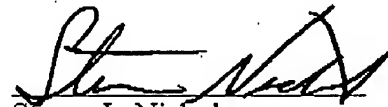
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expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: February 26, 2008



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I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number 571-273-8300 on February 26, 2008. Number of Pages: 22


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